

# Unlawful Detainer: Default Judgments



The legal process for evicting a tenant is referred to as an “Unlawful Detainer” case. In order to legally and successfully evict a tenant or tenants it is important for the landlord to follow some important and necessary steps. These form packets are used when a tenant(s) has been properly served with an unlawful detainer summons and complaint, and the tenant(s) have not timely filed a response with the court.

Usually a tenant is required to file the Answer within 5 calendar days from the date that they received the summons and complaint – don’t count court holidays. If the tenant(s) were not personally served then they might have additional time to file a response. If you served “unknown occupants” through a registered process server, then you must wait 15 days to file the default paperwork.

A tenant may file an Answer until the Landlord files the default paperwork. Verify with the court clerk that your tenant did not file an Answer before proceeding with the default judgment forms. The tenant is required to mail you a copy before the Answer gets filed by the court. Sometimes you get the Answer a few days later in the mail.

If a tenant files an Answer, then your next step is to file the Request to Set Case for Trial (UD-150). [Do not wait for the Status Conference date](#) which was automatically scheduled by the court clerk. That status conference is NOT your trial date. It is only a check up to make sure you have served the lawsuit and have moved the case along. Most cases are finished before that status conference date – if you take action.

**Note:** if you listed more than one person as a defendant on your case, then treat the actions of each person separately.

## *Example:*

Tenant #1 filed an Answer. File the Request to Set Case for Trial as to Tenant #1.

Tenant #2 did nothing. File the default judgment paperwork as to Tenant #2.

### **If you are ready for a default judgment:**

There are two types of paperwork for default judgments in unlawful detainer cases. If you want to get possession of your property back the fastest, then you start with the **Clerk's Default Judgment (Step #1)**. This paperwork is only processed by the clerk's office. Once the clerk's judgment for possession has been processed the landlord can obtain a writ of execution. The writ of execution is a document that the landlord will need to give a Sheriff in order for the Sheriff to evict the tenant(s).

You would follow it up with a **Court's Default Judgment (Step #2)** to get the monetary damages (like back rent) that were originally requested in the complaint. This paperwork starts at the clerk's office and then needs to be routed to the Judge for review and signature.

The alternative would be to submit one Court's Default Judgment asking for both possession and monetary damages; return of the signed judgment may take longer to get back as compared to the Clerk's Default Judgment for possession. The processing time varies by each court location, depending upon the backlog. It may take a few days for even the clerk's judgment to be processed.

It is the landlord's decision which type of default judgment they would like to file.

*The following documents and information will be necessary to fill out your forms completely and accurately:*

- ☐ A copy of the complaint
- ☐ Date on which you filed the complaint
- ☐ Date that notice expired (3-day notice, 30-day notice, etc.)
- ☐ Daily Rental Rate (Daily damages)
- ☐ Original or Copy of rental agreement (if any)

\*Proof of Service of Summons must already be filed with the clerk's office\*

**IF AT ANYTIME YOU FEEL THAT  
YOU NEED ADDITIONAL ASSISTANCE PLEASE VISIT  
[THE RESOURCE CENTER](#)**

**OR send us an email at [landlords&tenants@sb-court.org](mailto:landlords&tenants@sb-court.org)**

# F.Y.I

- ☆ The information that you put into the forms CANNOT be saved. It is very important that you print any forms that you need prior to closing the program.
- ☆ The form set has a "Next Steps" page. It contains information needed for you to finish our forms.
- ☆ Look for the yellow question marks for explanations. When you see a yellow question mark (?), simply roll your cursor over it.
- ☆ After you print, please stop by one of our Resource Centers so we can sit down with you, review your papers, and answer all of your questions.

Click here [for the forms for a "Clerk's Default Judgment" \(Step #1\)](#)

OR

Click here [for the forms for a "Court's Default Judgment" \(Step #2\)](#)